

SECOND REGULAR SESSION

# SENATE BILL NO. 1026

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MATHEWSON.

Read 1st time January 12, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3394S.02I

## AN ACT

To repeal section 650.055, RSMo, and to enact in lieu thereof one new section relating to DNA testing of felony offenders, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 650.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 650.055, to read as follows:

650.055. 1. **As used in this section, the following terms mean:**

- (1) **"DNA", deoxyribonucleic acid;**
- (2) **"DNA profiling system", as defined by section 650.050;**
- (3) **"DNA profiling analysis", forensic DNA analysis of a blood or scientifically accepted biological sample.**

2. Every individual convicted **of a felony** in a Missouri circuit court, [of a felony, defined as a violent offense under chapter 565, RSMo, or as a sex offense under chapter 566, RSMo, excluding sections 566.010 and 566.020, RSMo], **and every individual who enters into a plea agreement resulting in a conviction of a felony** shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis[:

(1)] upon entering the department of corrections' reception and diagnostic centers[; or

(2) Before release from a county jail or detention facility; or

(3) If such individual is under the jurisdiction of the department of corrections on or after August 28, 1996. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo].

[2.] 3. **Every individual convicted in a Missouri circuit court, of a felony, defined as a violent offense under chapter 565, RSMo, or as a sex offense under**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**chapter 566, RSMo, excluding sections 566.010 and 566.020, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis before release from a county jail or detention facility.**

4. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody of those convicted of the felony which shall not be set aside or reversed, is hereby made mandatory.

[3.] 5. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

[4.] 6. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

[5.] 7. Implementation of section 650.050 and this section shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

**8. (1) If the state accepts a person from another state under any interstate compact, or any other reciprocal agreement with any county, state, or federal agency, or any other provision of law and the person is confined to a facility of the department of corrections, the acceptance is conditional on the person providing a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis. Such persons shall provide the blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis in accordance with the procedures established by this section.**

**(2) Such persons include those:**

**(a) Convicted of an offense in any other jurisdiction which, if committed in this state, would be a felony; or**

**(b) Convicted of an equivalent offense in any other jurisdiction.**

**9. A person who is required to provide a blood or scientifically accepted biological sample collected for the purposes of DNA profiling analysis, but has not provided a sample, shall do so after being notified. The Missouri state highway**

patrol and the department of corrections shall notify the individual as part of their responsibility for ensuring adherence to the law pursuant to subsection 4 of this section.

10. If an individual's blood or scientifically accepted biological sample collected for the purposes of DNA profiling does not, for any reason, provide adequate information, the individual shall provide another sample for DNA profiling analysis.

11. It is a class A misdemeanor for a person subject to this section to knowingly refuse to provide a blood or scientifically accepted biological sample collected for the purposes of DNA profiling analysis after being notified pursuant to subsection 9 of this section.

12. (1) Any individual who gives a blood or scientifically accepted biological sample collected for the purpose of DNA profiling analysis pursuant to this section and the information is entered into the Missouri DNA profiling system, may request expungement on the grounds that the conviction on which the authority for including the individual's DNA profile was based has been reversed and the case dismissed.

(2) Upon receiving a written request for expungement, certified copy of the final court order reversing and dismissing the conviction or adjudication, and any other necessary information to ascertain the validity of the request, the administrators of the DNA profiling system shall expunge all DNA records and identifiable information in the DNA database pertaining to the person and destroy the blood or scientifically accepted biological sample collected for the purposes of DNA profiling analysis from the person, unless it is determined that the person is otherwise obligated to submit such a sample.

(3) An item of physical evidence, from which a sample for DNA profiling analysis was taken, does not have to be destroyed if evidence relating to another person would thereby also be destroyed.